

JAN 24 2008

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JESUS ANTONIO SANCHEZ-LLANES,

Defendant - Appellant.

No. 07-50182

D.C. No. CR-06-02435-MLH-1

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Marilyn L. Huff, District Judge, Presiding

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JESUS ANTONIO SANCHEZ-LLANES,

Defendant - Appellant.

No. 07-50216

D.C. No. CR-05-00081-MJL-1

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
M. James Lorenz, District Judge, Presiding

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Submitted January 14, 2008**

Before: HALL, O'SCANNLAIN, and PAEZ, Circuit Judges.

Jesus Antonio Sanchez-Llanes appeals from the 21-month sentence imposed following his guilty-plea conviction for being a deported alien found in the United States, in violation of 8 U.S.C. § 1326(a) and enhanced by (b). He also appeals from the 12-month sentence imposed for revocation of his supervised release. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Sanchez-Llanes contends that the district court violated Fed. R. Crim. P. 32 by failing to resolve his objections to the Pre-Sentence Report ("PSR") before imposing his sentence. This contention is belied by the record. The district court indicated its awareness of Sanchez-Llanes' challenges at the sentencing hearing and specifically adopted the findings made in the PSR. *See United States v. Tam*, 240 F.3d 797, 803-04 (9th Cir. 2001).

Sanchez-Llanes also contends that the district court failed to conduct a proper 18 U.S.C. § 3553(a) analysis. We disagree. *See Rita v. United States*, 127 S. Ct. 2456, 2469 (2007); *see also United States v. Perez-Perez*, No. 06-30341, 2008 WL 53664 at *1-2 (9th Cir. Jan. 4, 2008). We cannot say the district court's

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

sentencing decision constitutes an abuse of discretion. *See Gall v. United States*, 128 S. Ct. 586, 594 (2007).

In addition, we reject Sanchez-Llanes' contention that *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), has been overruled. *See United States v. Maciel-Vasquez*, 458 F.3d 994, 995-96 (9th Cir. 2006).

In regard to Sanchez-Llanes' revocation of supervised release contentions, we conclude that the district court did not abuse its discretion by revoking his supervised release. Sanchez-Llanes' supervised release was revoked after he violated a federal law, thus he had constructive notice of the term he violated. *See United States v. Dane*, 570 F.2d 840, 843-44 (9th Cir. 1977).

Sanchez-Llanes' contention that 18 U.S.C. § 3583(e)(3) is unconstitutional is foreclosed by *United States v. Huerta-Pimental*, 445 F.3d 1220, 1224-25 (9th Cir. 2006). We reject Sanchez-Llanes' contention that *Huerta-Pimental* is no longer good law.

AFFIRMED.